

regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations because they are interpretive regulations. Because these regulations are necessary to provide tax return preparers and taxpayers with immediate guidance on the application of the section 7216 rules regarding SSN masking requirements, particularly in light of the January 1, 2009 applicability date provided by the recently promulgated section 7216 regulations contained in TD 9375, and as these regulations are intended to provide a limited exception to, and relief from, the rule requiring SSN masking in all instances where tax return information is disclosed to a tax return preparer located outside of the United States and its territories and possessions, good cause would otherwise exist for dispensing with notice and public comment pursuant to 5 U.S.C. 553(b) and (c). For applicability of the Regulatory Flexibility Act (5 U.S.C. chapter 6), refer to the Special Analyses section of the preamble to the cross-referenced notice of proposed rulemaking published in the Proposed Rules section of this issue of the **Federal Register**. Pursuant to section 7805(f) of the Internal Revenue Code, these temporary regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is Lawrence E. Mack, Office of the Associate Chief Counsel (Procedure and Administration).

List of Subjects in 26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Amendments to the Regulations

■ Accordingly, 26 CFR part 301 is amended as follows:

PART 301—PROCEDURE AND ADMINISTRATION

■ **Paragraph 1.** The authority citation for part 301 is amended by adding an entry in numerical order to read as follows:

Authority: 26 U.S.C. 7805. * * *
Section 301.7216–3T also issued under 26 U.S.C. 7216. * * *

■ **Par. 2.** Section 301.7216–3 is amended by revising paragraph (b)(4) to read as follows:

§ 301.7216–3 Disclosure or use permitted only with the taxpayer's consent.

* * * * *

(b) * * *

(4) [Reserved]. For further guidance, see § 301.7216–3T(b)(4).

* * * * *

■ **Par. 3.** Section 301.7216–3T is added to read as follows:

§ 301.7216–3T Disclosure or use permitted only with the taxpayer's consent (temporary).

(a) [Reserved]. For further guidance, see § 301.7216–3(a).

(b) *Timing requirements and limitations*—(1) through (3) [Reserved]. For further guidance, see § 301.7216–3(b)(1) through (3).

(4) *No consent to the disclosure of a taxpayer's social security number to a return preparer outside of the United States with respect to a taxpayers filing a return in the Form 1040 Series*—(i) *In general.* Except as provided in paragraph (ii) of this section, a tax return preparer located within the United States, including any territory or possession of the United States, may not obtain consent to disclose the taxpayer's social security number (SSN) with respect to taxpayers filing a return in the Form 1040 Series, for example, Form 1040, Form 1040NR, Form 1040A, or Form 1040EZ, to a tax return preparer located outside of the United States or any territory or possession of the United States. Thus, if a tax return preparer located within the United States (including any territory or possession of the United States) obtains consent from an individual taxpayer to disclose tax return information to another tax return preparer located outside of the United States, as provided under §§ 301.7216–2(c) and 301.7216–2(d), the tax return preparer located in the United States may not disclose the taxpayer's SSN, and the tax return preparer must redact or otherwise mask the taxpayer's SSN before the tax return information is disclosed outside of the United States. If a tax return preparer located within the United States initially receives or obtains a taxpayer's SSN from another tax return preparer located outside of the United States, however, the tax return preparer within the United States may, without consent, retransmit the taxpayer's SSN to the tax return preparer located outside the United States that initially provided the SSN to the tax return preparer located within the United States. For purposes of this section, a tax return preparer located

outside of the United States does not include a tax return preparer who is continuously and regularly employed in the United States or any territory or possession of the United States and who is in a temporary travel status outside of the United States.

(ii) *Exception.* A tax return preparer located within the United States, including any territory or possession of the United States, may obtain consent to disclose the taxpayer's SSN to a tax return preparer located outside of the United States or any territory or possession of the United States where the tax return preparer within the United States discloses the SSN to a tax return preparer outside of the United States through the use of an adequate data protection safeguard as defined by the Secretary in guidance published in the Internal Revenue Bulletin (see § 601.601(d)(2)(ii)(b) of this chapter) and verifies the maintenance of the adequate data protection safeguards in the request for the taxpayer's consent pursuant to the specifications described by the Secretary in guidance published in the Internal Revenue Bulletin.

(b)(5) and (c) [Reserved]. For further guidance, see § 301.7216–3(b)(5) and (c).

(d) *Effective/applicability date.* This section applies to disclosures or uses of tax return information occurring on or after January 1, 2009. The applicability of this section expires on or before January 1, 2012.

Linda E. Stiff,

Deputy Commissioner for Services and Enforcement.

Approved: June 25, 2008.

Eric Solomon,

Assistant Secretary of the Treasury (Tax Policy).

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[USCG–2008–0207]

RIN 1625–AA09

Drawbridge Operation Regulations; Potomac River, Oxon Hill, MD and Alexandria, VA

AGENCY: Coast Guard, DHS.

ACTION: Temporary rule.

SUMMARY: The Coast Guard is temporarily changing the regulations governing the operation of the new

Woodrow Wilson Memorial (I-95) Bridge, mile 103.8, across Potomac River between Alexandria, Virginia and Oxon Hill, Maryland. This action is necessary to finalize construction of the drawbridge.

DATES: This temporary rule is effective from July 2, 2008 to March 1, 2009.

ADDRESSES: Comments and related materials received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG-2008-0207 and are available online at <http://www.regulations.gov>. This material is also available for inspection or copying at two locations: the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays and the Commander (dpb), Fifth Coast Guard District, Federal Building, 1st Floor, 431 Crawford Street, Portsmouth, VA 23704-5004 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call Waverly W. Gregory, Jr., Bridge Administrator, Fifth Coast Guard District, at (757) 398-6222. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On April 18, 2008, we published a notice of proposed rulemaking (NPRM) entitled "Drawbridge Operation Regulations; Potomac River, Oxon Hill, MD and Alexandria, VA" in the **Federal Register** (73 FR 21090). We received two e-mails commenting on the proposed rule. No public meeting was requested, and none was held.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective in less than 30 days after publication in the **Federal Register**. While construction continues, this rule will allow the drawbridge to remain closed-to-navigation each day from 10 a.m. to 2 p.m. until and including March 1, 2009.

Background and Purpose

On March 5, 2008, we published a notice of temporary deviation from the regulations entitled "Drawbridge Operation Regulations; Potomac River, Between Maryland and Virginia" in the

Federal Register (73 FR 13127), which ended on May 30, 2008.

The Maryland State Highway Administration and the Virginia Department of Transportation, co-owners of the drawbridge, requested an extension of the aforementioned temporary deviation for a longer period of time in an effort to minimize the potential for major regional traffic impacts and consequences during bridge openings while construction continues. Bridge owners requested that the drawbridge not be available for openings for vessels each day between the hours of 10 a.m. to 2 p.m. through Sunday, March 1, 2009 or until the bridge is properly commissioned, whichever comes first. Construction will continue during this time period and the normal vehicular traffic pattern with five lanes operating in each direction is not anticipated until near the end of the time period.

From a river-user standpoint, the coordinators for the construction of the new Woodrow Wilson Bridge Project have received no requests from boaters or mariners to open during the 10 a.m. to 2 p.m. timeframe since the first temporary deviation was issued in late June 2006. In fact, no requests have been received for an opening of the new bridge at all since July 3, 2006. Finally, the coordinators have received no complaints on the 10 a.m. to 2 p.m. restriction. This temporary rule will affect only vessels with mast heights of 75 feet or greater. Furthermore, all operators of affected vessels with mast heights greater than 75 feet will be able to request an opening of the drawbridge in the "off-peak" vehicle traffic hours (evening and overnight) in accordance with 33 CFR 117.255(a).

Discussion of Comments and Changes

The Coast Guard received two comments by e-mail to the NPRM. One respondent stated that this temporary change of the regulation will have minimal effect on their Potomac River operation and the delivery of the jet fuel barge can be scheduled around the daily planned closure.

The other respondent indicated that their tugs did not need to open the drawbridge; the vertical clearance is sufficient and did not foresee any issues as long as they can still use the channel.

Based on the comments received, we are issuing a temporary rule without substantive change from the NPRM.

Discussion of Rule

The Coast Guard is temporarily amending 33 CFR § 117.255 by inserting new paragraphs (a)(2)(iii) and (a)(4)(iv), which allow the draw of the Woodrow

Wilson Memorial (I-95) Bridge, at mile 103.8, between Alexandria, Virginia and Oxon Hill, Maryland to remain closed between 10 a.m. and 2 p.m. through March 1, 2009.

Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

Regulatory Planning and Review

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. We reached this conclusion based on the fact that this temporary change will have only a minimal impact on maritime traffic transiting the bridge. All operators of affected vessels with mast heights greater than 75 feet will be able to request an opening of the drawbridge in the "off-peak" vehicle traffic hours (evening and overnight) in accordance with 33 CFR 117.255(a), and mariners can plan their trips in accordance with the scheduled bridge openings to minimize delays.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will not have a significant economic impact on a substantial number of small entities because the rule only adds minimal restrictions to the movement of navigation, all operators of affected vessels with mast heights greater than 75 feet will be able to request an opening of the drawbridge in the "off-peak" vehicle traffic hours (evening and overnight) in accordance with 33 CFR 117.255(a), and mariners who plan their transits in accordance with the scheduled bridge openings can minimize delay.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520.).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Commandant Instruction M16475.ID and Department of Homeland Security Management Directive 5100.1, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2-1, paragraph (32)(e) of the Instruction, from further environmental documentation.

Under figure 2-1, paragraph (32)(e), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule.

List of Subjects in 33 CFR Part 117

Bridges.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05-1; Department of Homeland Security Delegation No. 0170.1.

■ 2. From July 2, 2008 to March 1, 2009, in § 117.255 add new paragraphs (a)(2)(iii) and (a)(4)(iv) to read as follows:

§ 117.255 Potomac River.

(a) * * *

(2) * * *

(iii) From July 2, 2008 to March 1, 2009, from 10 a.m. to 2 p.m., the draw need not be opened.

* * * * *

(4) * * *

(iv) From July 2, 2008 to March 1, 2009, from 10 a.m. to 2 p.m., the draw need not be opened.

* * * * *

Dated: June 19, 2008.

Fred M. Rosa, Jr.,

Rear Admiral, United States Coast Guard, Commander, Fifth Coast Guard District.

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